

## **REMARKS**

This amendment is offered in response to the Office Action of August 23, 2005.

With respect to the provisional obviousness-type double patenting rejection, the Applicant respectfully requests that this rejection be deferred. The Applicant will file terminal disclaimers, if necessary, after the applications are otherwise in condition for allowance.

The Office Action rejects Claims 34-37, 39 and 41-45 under 35 U.S.C. §102(e) as being anticipated by the Herber reference (U.S. Patent No. 5,519,982) and similarly rejects Claims 34-46 under 35 U.S.C. §103(a) as being obvious over the Herber reference in view of the Gilbert reference (United Kingdom Patent No. 2,085,519) or, alternatively, the Gilbert reference in view of the Herber reference. At the outset, the Applicant objects to the statement that “little patentable weight is given to the presence of the zipper on the slider since no manipulative steps are set forth in these claims regarding the slider”. At a minimum, such an absence of a claimed element should preclude an anticipation rejection under 35 U.S.C. §102. Further, the presence of a slider is not an inconsequential matter with respect to the design of a reclosable bag. In the Herber reference, for instance, in Figs. 3, 4, 5, 18 and 19, the entire base of the profiles is sealed to the web of the bag. This is entirely different from newly amended Claim 34 which recites that the zipper includes “two interlocking profiles with flanges extending therefrom” and further recites “sealing a first portion of said flanges to said opposing package walls adjacent to said bottom fold with a second portion of said flanges free of sealing to said opposing package walls”. The structure resulting from this step, as opposed to the structure shown in the Herber reference, is required in order to make the sliders functional. Moreover, the Gilbert reference merely describes a method of attaching a slider to a fastener and could not be combined with Herber because the Gilbert attachment device could not load sliders on the zipper of the Herber

reference. More particularly, the “gripper beads” 38, 52, 229, as shown in Figs. 3, 4, 5, 18 and 19 of the Herber reference would likewise prohibit the proper functioning of a slider.

Additionally, the interlocking profiles being enclosed within the walls of the bag would lead one of ordinary skill in the art away from combining a slider reference, such as the Gilbert reference, with the Herber reference.

There is nothing in the Herber reference or the Gilbert reference which would disclose or suggest the modification of the Herber reference to change the profile structure in order to accommodate a slider.

It is therefore respectfully submitted that the above rejections with respect to the Herber and Gilbert references are overcome.

For all of the reasons above, it is respectfully submitted that all of the presently pending claims are in immediate condition for allowance. The Examiner is respectfully requested to withdraw the rejections of the claims, to enter the amendment, to allow the claims, and to pass this application to early issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ronald E. Brown', with a stylized, flowing script.

Ronald E. Brown  
Registration No. 32,200

Pitney Hardin LLP  
7 Times Square  
New York, New York 10036-7311  
212-297-5800